

The phenomenon of private military corporations in the context of globalization

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Abstract

The phenomenon of private military companies (PMCs) is a rather controversial and ambiguous topic. Over the past thirty years, PMCs have played an increasingly important role in local wars and regional conflicts. This article deals with the causes of the emergence of PMCs, analyses their characteristics and gives legal assessments. Private military companies are just as inevitable a consequence of globalization as transnational corporations. In this regard, according to the author's assessment, PMCs will not only not cease to exist for a long time, but, on the contrary, will spread in the future. At the same time, the activities of PMCs, to the maximum extent possible, should be within the legal framework.

Keywords: globalization, private military company, PMC, international law, humanitarian law, armed conflict.

Introduction

After the collapse of the bipolar system, a new paradigm of the international environment has emerged, especially with the rapid development of economic globalization, the monopoly of nation-states on violence has been largely reduced. In the tide of military outsourcing, the private military industry in the US, UK and elsewhere has been getting stronger and stronger. For example, MPRI, Vinnell, Brown and Root and a large number of other private military companies repeatedly appear in local wars and regional conflicts that break out in various regions of the world (Slomski, 2022; Slomski, Dulski, Ilnicki 2022; Slomski, Staniewski, Rzyziński, 2015).

Taking economic interests as a basis, PMCs are engaged in a wide range of business activities - from military consulting, military training, security and protection to intelligence gathering, logistics and combat support. During the Iraq war, PMCs were unprecedentedly active. This made it possible to call the conflict "the first war of privatization". According to a US Government Accountability Office report, estimates of the number of PMC employees at the time ranged from 20,000 to more than 25,000

(Rebuilding Iraq, 2005), worked at least 60 different PMCs, of which the 10 largest private American and British contractors earned at least \$ 72 billion (Chatterjee, 2010). These figures, most likely, are not final since the exact accounting for PMCs by the US defence department has never been fully disclosed. Nevertheless, as can be seen, these 'merchants of death' annually received significant super-profits from participation in wars and conflicts, the private military industry finally formed a completely new economic industry and, more importantly, a huge and highly profitable segment of the international market.

Looking at the history of capitalist development, one can argue that economic and military expansion have always been two sides of the same coin. To overcome the various obstacles that arise in the process of financial expansion, the development of a free-market economy must be protected by military power (Zhurbey, 2015). Therefore, in the context of the globalization of the economic system, the close relationship between the interests of the companies of countries and the armed forces of their 'parent' states is strengthened even more. The well-known American economist T. Friedman, adviser to M. Albright, spoke frankly that the "invisible hand of the market" would never exert its influence in the absence of the "invisible fist", for example, McDonald's cannot be profitable and famous all over the world without support for McDonnell Douglas, which produces the F-151.

Along with the fact that one of the main characteristics of capitalism is the economic policy of private property, the main object of economic expansion are private companies that were protected by military expansion. It can be said that private companies are the biggest beneficiaries of capitalist economic and military expansion. It is worth noting that a significant part of PMCs are enterprises engaged in military production, and they directly receive economic benefits through the external expansion of their countries. It is well known that the interests of the military-industrial complex of the United States largely influence the adoption of strategic decisions in the field of US foreign security (Freire, 2010). However, until the end of the Cold War, the military industry only indirectly encouraged the government to send troops to conflict zones in order not to directly expose itself to fire. Obviously, in the initial period of the formation of this business, the state firmly controlled the monopoly right to violence, and PMCs were still on the periphery of the attention of government institutions.

However, in the late 1980s, the international political situation changed dramatically. In addition, the collapse of the blocs led to globalization, liberalization and deregulation of the world economy, the abolition of various customs duties and bans,

¹ For more details see: The links between McDonald's and McDonnell Douglas. (2001). Retrieved from <https://socialistworker.co.uk/what-we-think/the-links-between-mcdonald-s-and-mcdonnell-douglas/> (09.12.2022).

which as a result led to a sharp increase in the free movement of capital and resources (Bakker, Sossai, 2012).

It should be noted that there has been a tendency towards pluralism among the subjects of international politics and the release of the state from some previously essential functions. This process also affected the military sphere and the sphere of ensuring state security. As a result, it had a great influence on the ideology of the war. Professor Wu Dahui, head of the Center for Strategic Studies of Asia and Europe at Tsinghua University, believes that the future war model is not focused on the vertical control of national armies, economic and political support for all participants in the conflict is transnational in nature, less on the basis of state assistance.

With the spread of neoliberalism in Western countries, many public sectors were privatized (Alekseeva, 2011). This wave of decline in the role of state institutions also affected the military sphere, the state authorities weakened their former absolute monopoly on violence and allowed the emergence of a private military industry. This is how PMCs began to emerge, directly receiving huge benefits from local wars and regional conflicts.

During almost all of the 90s of the twentieth century, military spending by developed countries was significantly reduced due to the end of the confrontation between the two superpowers - the USSR and the USA. In addition, a new wave of military revolutions in the world objectively demanded and continues to demand from countries to reduce the number and improve the quality of their military formations and increase the number of professional military personnel. As Professor Wu Dahui noted, in the 1990s the US army was reduced from 2.04 million to 1.36 million people, the British - from 30.9 thousand to 22 thousand, the French - from 66 thousand to 54 thousand, German - from 60 thousand to 32 thousand. The question of how to ensure their employment without compromising the economic efficiency of the country has become a serious problem faced by various governments around the world.

Thus, PMCs with a higher economic return became ideal shelters for officers and soldiers who fell under the reduction. According to media reports, PMC employees in Iraq daily received from 600 to 800 dollars, which is 6-10 times the income of the US military (Scahill, 2008). With the rapid development of economic globalization, many countries have increasingly leaned towards a position of minimal interference in the arms trade, which has allowed PMCs to easily acquire the necessary military equipment and weapons on the market.

If we discuss the demand for the services of PMCs, then, apparently, after the end of the Cold War, the number of local conflicts only increased. According to incomplete statistics, during the period of confrontation between the US and the USSR, there were a total of 182 local wars and regional conflicts in the world, which averaged 4 conflicts per year. After the lifting of the 'Iron Curtain' only from 1991 to 1997, a total of 245 military clashes of various sizes took place in the world. In general, the average annual

figure was about 35 conflicts. Moreover, these confrontations mainly took place in developing countries, which are the so-called 'failed' countries. Many developing states have found themselves unable to cope with new threats to national security on their own. As a result, states in general and the armed forces in particular began to actively and willingly delegate part of their functions to private military contractors.

P. Singer (2008), an expert on military affairs at the Brookings Institution of the United States, said: "PMCs are a highly organized, profit-oriented entity that sells professional war-related services. These companies specialize in providing military technology and technical assistance, including assistance in tactical military operations, strategic planning, intelligence collection, analysis, military operations and training of military personnel".

The main features of PMCs include the following aspects:

Firstly, PMCs are already working in different parts of the world, their field of activity is extensive, but the classification criteria are not exactly the same. According to P. Singer, PMCs can be divided into three types depending on their distance from the battlefield:

- 1) military logistics companies whose main responsibilities are the logistics service, technical support, safe transportation and construction of military facilities;
- 2) consulting military companies that advise on strategic planning, assist in the training of army units, training in working with new types of weapons;
- 3) military service companies whose main responsibilities are to provide tactical support during military operations, including command or direct participation in hostilities (Zhiyar, 2006).

Also, some scientists divide PMCs into two categories: 'combat' and 'non-combat'. The latter, in turn, are divided into three subgroups: military logistics companies, private security companies (PSCs) and non-lethal services companies responsible for general personnel maintenance, property security, personal protection, non-combat logistics and communications. This categorization method is not flawless as it sometimes categorizes security companies as military.

Secondly, the organizational structure of PMCs is disordered, mobile and has a flexible system. Most are 'virtual companies': in order to reduce the cost of unnecessary expenses, as a rule, they do not have a regular contingent; a relatively small, minimum required staff is employed to support the functioning of the structure. Having created a database of military specialists, advisers, instructors, they, by signing contracts for the provision of military services, can quickly increase the staff of military personnel (Singer, 2008). Today, in the labor markets of many countries, the supply of veterans of the army and law enforcement personnel significantly exceeds the demand. And since PMCs have high incomes, they are able to acquire weapons and military

equipment of various types, including the most modern and technologically advanced. Moreover, in general, PMC leaders, often retired military officers at the general level, can not only use their connections in the military elite to easily obtain contracts, but also have charisma and the power to influence personnel. For example, in the United States, the majority of PMCs consists of retired high-ranking military personnel. There are jokes that PMCs “have more generals per square foot than the Pentagon” (Percy, 2012).

Thirdly, the main motive for the existence of private military campaigns is to make a profit. PMCs are primarily commercial enterprises operating in accordance with the principle of commercialization, the fundamental goal of which is to maximize economic benefits. The business of PMCs is highly profitable, their economic efficiency also deserves attention. In 2021, the global PMC market was already estimated at \$241 billion, and by 2028, researchers predict growth to \$366 billion¹. Many experts believe that as a result of the growing demand in the world for the services provided by PMCs, after a large-scale global coronavirus pandemic, this market will continue to grow rapidly in the foreseeable future.

Fourthly, it should be noted the difference between PMCs and mercenary troops in the traditional sense. The history of mercenarism has its roots in antiquity, when the first mention of soldiers who fought for a monetary reward appeared. Since then, Greek and Roman mercenary formations have gained worldwide fame. According to the First Additional Protocol to the Geneva Conventions of 1977, a mercenary is any person who:

- 1) is specially recruited locally or abroad in order to fight in an armed conflict;
- 2) actually takes a direct part in hostilities;
- 3) is neither a citizen of a Party to the conflict nor a permanent resident in the territory controlled by a Party to the conflict;
- 4) is not a member of the armed forces of a party to the conflict;
- 5) not sent by a State which is not a Party to the conflict to perform official duties as a member of its armed forces.

Thus, persons who simultaneously meet the above requirements can be considered mercenaries (Crawford, Pert, 2015).

Fifth, both PMC employees and mercenaries are all pursuing selfish economic interests. However, mercenaries are guided only by personal goals, and PMCs, acting

¹ See more detailed data: Private Military Security Services Market Size worth USD 366.8 Billion by 2028. (2022). Retrieved from <https://www.globenewswire.com/en/news-release/2022/06/22/2466892/0/en/Private-Military-Security-Services-Market-Size-worth-USD-366-8-Billion-by-2028-With-stunning-7-2-CAGR-Says-Vantage-Market-Research.html> (09.12.2022).

as a legal entity, strive to obtain maximum profit for their company, they are engaged in a wider range of business than mercenaries. In addition to direct combat operations, their scope also includes various non-combat tasks after conflict resolution. Employees hired by PMCs may be citizens of one of the parties to the conflict or citizens of the territory controlled by one of the parties to the conflict. Equally important, private military campaigners usually do not use their official position to intervene in the conflicts of other countries, but the tasks they perform often coincide with the aspirations of the government of the country using the services of this PMC. For example, the MRSh company first trained officers for the Croatian army in 1995, and then trained a large number of reserve military personnel for Montenegro and, undoubtedly, made a significant contribution to the isolation and collapse of the political regime of S. Milosevic. Of course, for this she received significant practical support from the Pentagon.

As the market for private military services has changed radically, the demand for private military contractors has grown exponentially. Moreover, there are signs that PMCs are gradually pushing the regular army out of the battlefield. As a result, more and more functions that were previously carried out by state security structures or military departments have been transferred into the hands of private military contractors - many states are more actively outsourcing war. For example, in the UN peacekeeping operations of recent years, PMCs are considered absolutely equal legal entities along with regular army units.

In many Western countries, PMCs have become a very effective tool for implementing the foreign policy strategy of their states (Faite, 2003). On the one hand, PMCs can at any time fill the void in protracted international conflicts caused by the reduction in the number of regular armies, and without increasing the burden of state military spending. On the other hand, the use of PMCs can allow covert external intervention without the need to make great efforts to wage a "war for a just cause", ensure the interests of a friendly/puppet government, while minimizing their "official" human losses in dangerous military operations.

The international community has traditionally opposed the recruitment, use, financing and training of mercenaries, but PMCs other than mercenary troops are not subject to relevant provisions on mercenaries in international law, such as the Geneva Convention. Since these companies have flexible organizational methods, it is easy for them to get around the various restrictions of national legislation. It can be argued that today PMCs are subject only to the principles of a market economy, and not to international law (Gasser, Malzacher, 2020, p. 158).

Thus, the emergence of PMCs to a certain extent changes not only approaches to the use of military force in conflict situations, but also the very concept of the state's military policy as a whole. In practice, the vast majority of PMCs do not disclose their accounts and do not provide data on the number of personnel. However, even open information does not fully reflect the state of military companies (Scahill, 2008). But,

nevertheless, the largest PMC in the world today, the British Group 4 Securicor, turned out to be represented in 125 countries of the world by 2019 and had up to 570 thousand people on its staff. Even taking into account the fact that the company formally denied its participation in hostilities many times, its number in itself reveals the prosperity and success of the global private military business.

It should be emphasized that a serious shortcoming of the activities of PMCs is their insufficient legal support (Freedman, Smith, 2010, p. 363). Until now, the issue of the legal status of PMCs remains debatable and complex. Many human rights organizations characterize private military companies as nothing more than mercenary recruitment offices. In their opinion, PMCs often violate the norms of international humanitarian law, abuse force, commit cruelty, kill innocent residents, women and children, help transnational corporations (TNCs) plunder the natural resources of the countries in which they operate.

Thus, the legal status of employees of private military companies, to a certain extent, despite the fact that their activities are regulated by already existing norms of international and national law, is a 'gray zone' in legal regulation, which, however, due to the adoption of a number of international documents of advisory nature and consensus-building in the academic environment is now more certain (Cameron, 2006).

In connection with the increasing cases of the use of mercenaries in military conflicts in 1979, the UN General Assembly adopted a resolution on the need to develop a convention against the recruitment, use, financing and training of mercenaries; a specialized committee was created, which included representatives of 35 states (however, although six sessions of the committee took place before January 20, 1987, no legal documents on the problem were adopted).

In 1999, the US Army command adopted a regulatory document establishing the procedure for the interaction of US military personnel and employees of private security and military companies in a combat zone - manual FM 100-21 (Contractors on the battlefield, 2003). In April 2001, the Peace Operations Association (POA) was created to coordinate the activities of private military and security companies at the international level. After the start of the war in Iraq, an association of Western private military and security companies, the Private Security Company Association of Iraq (PSCAI), was created to coordinate their activities in Iraq. The Association includes 40 military and security companies.

Employees of private military companies are often presented in the media and journalism as mercenaries, although this is far from always correct and often only speaks of a negative attitude towards them (Clapham, 2006, p. 299-300). The overwhelming majority of employees of private military companies do not participate in hostilities, and therefore they cannot be qualified as mercenaries. Another important criterion for classifying as mercenaries is the fact that these people should

not be incorporated into the armed formations of the state, while both *de jure* (as in Sierra Leone) and *de facto* incorporation, which can be established not only by a legal act, but also by an agreement (Saudi Arabia). Article 47 of Additional Protocol I to the Geneva Conventions of 1949 contains a definition of the term 'mercenary'. In order to qualify employees of private military companies as mercenaries, it is necessary that all the criteria specified in the article be met in aggregate. Thus, only a small part of the PMC employees participating in international military conflicts can be recognized as mercenaries (Cameron, 2006).

Assignment of combatant status to a PMC employee is possible only in three cases:

- 1) The inclusion of PMCs in the armed forces of the warring party.
- 2) Some employees of private military companies may be considered combatants within the meaning of Art. 1 of the Geneva Convention on the Laws and Customs of War on Land of 1907 and the Geneva Convention III on the Treatment of Prisoners of War, if they belong to the militia, volunteer detachments, resistance movements located on one of the parties to the conflict, and simultaneously satisfy the following criteria:
 - a. the presence at the head of a person responsible for his subordinates;
 - b. a definite and clearly visible distinguishing sign;
 - c. open carrying of weapons;
 - d. observance of the laws and customs of war.
- 3) PMC employees are considered as combatants if they are citizens of one of the parties to the conflict (art. 4a/2 of the Geneva Convention III).

Due to the lack of effective state control over the activities of PMCs, their personnel often become participants in various kinds of scandals. The most resonant case occurred in Iraq with PMC Blackwater. It was then that the press service of this company reported that its employees were attacked, and they heroically defended the lives of American citizens in the war zone. However, this was not the case. On September 16, 2007, a Raven 23 tactical support team for PMC Blackwater attempted to block traffic to allow free passage for the US diplomatic corps. The team's snipers discovered a suspicious car and opened fire on the fleeing people. As a result, 17 Iraqi civilians were killed, including women and two children. According to eyewitnesses, no return shots were fired. The massacre in Nisour Square caused a wave of indignation over the impunity of PMC employees. The investigation into this incident lasted 8 years, it took in order to convict and send to prison 5 members of the Raven 23 group (Apuzzo, 2014). On December 23, 2020, former US President Donald Trump vacated the sentence by decree (Haberman, Schmidt, 2020). A loud scandal re-emerged in the world media.

Interest in the problem of private military companies flared up again in connection with the course of the war in Ukraine. From the very beginning of the armed aggression, information appeared in various sources that the Wagner Group, a private military company that had previously taken part in conflicts in Syria and the Central African Republic, was participating in the hostilities on the side of Russia. Before the start of the war, the creation and management of Wagner PMC was attributed to Yevgeny Prigozhin, an entrepreneur and confidant of Russian President Vladimir Putin. Nevertheless, in September 2022, Prigozhin openly confirmed the fact that he had created a PMC¹. The activities of the Wagner mercenaries were associated with egregious violations of human rights. Thus, during the Syrian conflict, members of the Wagner Group committed the brutal murder of a Syrian citizen who had deserted from the reserve of the army of Bashar al-Assad and filmed the process (McLoughlin, 2017). In the Central African Republic, under unclear circumstances, a group of independent Russian journalists was killed while filming a documentary about the company's activities, but all circumstances point to the fact that the murder was carried out by PMC mercenaries.

Fundamental changes affected Wagner precisely after the Russian invasion of Ukraine: the group 'came out of the shadows', began a full-scale recruitment of personnel, including from the composition of prisoners in Russian correctional institutions. The group's activities in Ukraine have also been associated with human rights violations and war crimes. The media reported that members of the Wagner participated in the massacre in Bucha, and in November 2022 a video was published where the Wagnerites smash the head with a sledgehammer to Yevgeny Nuzhin, who previously took part in the battles on the side of the PMC, but later surrendered to the Armed Forces of Ukraine². The sledgehammer became a kind of 'symbol' of the group (it was also used in the murder of a Syrian citizen), and Yevgeny Prigozhin handed over the case with the blood-stained sledgehammer to the European Parliament³. Interestingly, the leaders and employees of the 'predecessor' of the PMC, namely the PMC "Slavonic Corps", were arrested in 2013 for mercenarism, which is a criminal offense under Russian law. In addition, foreign mercenaries are taking part in the Ukrainian conflict on both sides: the Russian regime has attracted veterans of the Syrian Arab army, while mercenaries from all over Europe are supporting Ukraine.

¹ For more details, see: Putin ally Yevgeny Prigozhin admits founding Wagner mercenary group. (2022). Retrieved from <https://www.theguardian.com/world/2022/sep/26/putin-ally-yevgeny-prigozhin-admits-founding-wagner-mercenary-group> (09.12.2022).

² I saw dad being executed with a hammer like an animal by Putin's thugs in horror vid – words can't describe how I felt. (2022). Retrieved from <https://www.thesun.co.uk/news/20455142/dad-executed-hammer-video-putin-thugs-wagner/> (09.12.2022).

³ See: Russia's Wagner Group Says Sending Blood-Stained Sledgehammer to EU Parliament. (2022). Retrieved from <https://www.themoscowtimes.com/2022/11/24/russias-wagner-group-says-sending-blood-stained-sledgehammer-to-eu-parliament-a79487> (09.12.2022).

There is no doubt that the system for monitoring the activities of PMCs requires the improvement and development of relevant international legal norms, and changes in the domestic legislation of a number of states (Leander, 2010).

Today, two models of regulation of PMCs compete with each other: one of them is proposed in the UN Convention on the Regulation of Private Military and Security Companies, the other is based on the Montreux Document, developed with the participation of specialists from the International Committee of the Red Cross together with the Geneva Center for Security Sector Governance (DCAF) initiated by the Swiss government (Cameron, 2006). Unfortunately, both approaches are hardly noticeable, since they are not implemented by anyone, since title documents are a tool of 'soft law'. It is obvious that the full legalization of the private military business is far away, but, most likely, this is just as inevitable as the globalization and professionalization of wars in the world. In any case, as long as hostilities are inevitable, the private military business will also have a financial interest that pushes them to participate.

PMCs will not cease to exist for a long time. Moreover, there is a tendency for their spread with an increase in the number of local wars and armed conflicts in the world. However, if PMCs want to develop, then they cannot but be within certain limits. Looking back at history, the smooth development of a free-market economy requires government intervention. Likewise, the development of PMCs meant that certain legal frameworks were needed. The competition of various PMCs is increasingly demanding strict procedures and rules for doing business in the international defense market. In the end, the need to stay within the legal framework in the interests of the PMCs themselves for further prosperity and development.

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